

ASSIGNMENT 3

Textbook Assignment: "Constitutional Considerations," chapter 4, pages 4-1 through 4-25.

3-1. Article 31, UCMJ, has a broader interpretation of the protection against self-incrimination than the Fifth Amendment.

1. True
2. False

3-2. The right to have the assistance of counsel for a person's defense is a right under what constitutional amendment?

1. Fifth
2. Sixth
3. Third
4. Fourth

IN ANSWERING QUESTIONS 3-3 AND 3-4, SELECT THE PROPER SUBSECTION OF ARTICLE 31, UCMJ, STATED AS THE QUESTION.

3-3. No person may interrogate or request any statement from an accused or a person without first informing him or her of the nature of the accusation.

1. (a)
2. (b)
3. (c)
4. (d)

3-4. No statement illegally obtained through coercion may be used against an accused at trial.

1. (a)
2. (b)
3. (c)
4. (d)

3-5. What two words are the keys to understanding Article 31(a)?

1. Questioning and interrogating
2. Compulsion and self-incrimination
3. Evidence and guilt
4. Self-incrimination and interrogation

3-6. While interviewing a witness, you learn that the witness may be a suspect to the commission of a crime. What action, if any, should you take?

1. Make a notation on the interview sheet and forward it to the trial counsel
2. Administer Article 31 rights to the witness before continuing the interview
3. Stop the interview and forward the results to the Naval Criminal Investigative Service
4. None

3-7. During an interrogation, an accused makes a confession without proper warnings being given. What type of a statement is this?

1. Voluntary
2. Spontaneous
3. Involuntary
4. Compelled

3-8. The cleansing warning procedure was sanctioned by what official body?

1. JAG
2. Supreme Court
3. COMA
4. NAMARA

3-9. An oral confession or admission not reduced to writing is valid as a writing in court.

1. True
2. False

3-10. Which, if any, of the following acts would require Article 31(b) rights to be given first?

1. Provide a urine sample
2. Submit to fingerprinting
3. Provide a handwriting exemplar
4. None of the above

3-11. An accused requests counsel during questioning and is dismissed. Under what circumstance, in any, may the accused be requestioned?

1. After preferral of charges
2. After an appointment with counsel has been made
3. After counsel has been made available
4. None

3-12. Custody for the purpose of the counsel requirement is best defined in which of the following statements?

1. Custody in a brig
2. Placed in handcuffs
3. Any deprivation of one's freedom of action
4. Any confinement initiated with a confinement order

3-13. Which of the following custodial situations would require Article 31(b) warnings?

1. SN Line is questioned by the legal officer regarding a 20-minute UA
2. OS1 Hatch is questioned at security regarding a domestic dispute
3. PR2 Deck is questioned at NCIS regarding the theft of a car
4. FR Pistol appears at mast and is questioned regarding a DUI

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3-14. When an accused indicates a desire to terminate the interview after an Article 31 warning has been given, what action should be taken next?

1. The interview is continued and any statement made after the indication to terminate the interview is admissible in a trial
2. The interview is continued and any statement made after the indication to terminate the interview is inadmissible in a trial
3. The interview is terminated
4. The accused is advised that failure to continue the interview would be in violation of Article 92, UCMJ

3-15. What is meant by the term *primary taint*?

1. Initial evidence of a crime
2. Initial confession of a crime
3. The first violation of the accused's rights against self-incrimination
4. The evidence obtained by an illegally obtained confession

3-16. After advising an accused of his or her Article 31 rights, the interrogator must ensure that what action is completed?

1. All rights were given exactly as stated in the JAGMAN
2. The accused reads the rights statement
3. The accused knows which amendments provide his or her rights
4. The accused fully understands his or her rights

3-17. What constitutional amendment protects an individual against unreasonable searches and seizures?

1. First
2. Fifth
3. Sixth
4. Fourth

- 3-18. Information given to establish probable cause for a search should be given under oath.
1. True
 2. False
- 3-19. Where may guidance on the military law of search and seizure be found?
1. MCM, Appendix 14
 2. UCMJ
 3. *Military Rules of Evidence*
 4. *U.S. Constitution*
- 3-20. A probable cause determination should be based on what factor?
1. A reasonable belief
 2. A preponderance of the evidence
 3. Actual evidence
 4. Factual basis
- 3-21. A senior noncommissioned officer who is an OIC may authorize a search.
1. True
 2. False
- 3-22. The term *jurisdiction* pertains to what two terms?
1. Authority and neutrality
 2. Person and property
 3. Place and property
 4. Person and place
- 3-23. A CO's authority to search off base extends to what jurisdictional authority, if any?
1. Place
 2. Property
 3. Person
 4. None
- 3-24. Which, if any, of the following areas may be searched without a command-authorized search being authorized?
1. A locker in a BEQ room assigned to a person suspected of distributing dangerous drugs
 2. The car of an individual suspected of stealing government property
 3. The desk of an individual suspected of possessing dangerous drugs
 4. None of the above
- 3-25. Under what specific circumstance may a foreign agent search an area considered an extension of the sovereignty of the United States?
1. When in pursuit of a known felon
 2. Only when assigned by a U.S. State Department representative
 3. When authorized by international agreement
 4. When probable cause is presented
- 3-26. Which of the following persons may authorize a search?
1. Command duty officer
 2. Chief staff officer
 3. Staff judge advocate
 4. Executive officer, acting
- 3-27. A commanding officer taking action on a search authorization feels he cannot remain neutral and detached in his decision. Who may then authorize the search?
1. Executive officer
 2. Command duty officer
 3. Legal officer
 4. Next superior commander in the chain of command

- 3-28. The factual basis requirement for probable cause is met when an individual reaches which of the following conclusions?
1. The property in question is what it is alleged to be
 2. The property in question is located where it is alleged to be
 3. Both 1 and 2 above
 4. The property in question is in fact the means or fruit of a crime
- 3-29. An informant's identity must be disclosed to the authorizing officer in order to establish reliability.
1. True
 2. False
- 3-30. When a search authorization is prepared, what information must be included on the authorization?
1. The name of the place or person to be searched
 2. A description of the property to be seized
 3. A statement that the information giving probable cause was provided under oath
 4. All of the above
- 3-31. Under what circumstance may hearsay information be used to establish probable cause?
1. When made by an anonymous phone call
 2. When the information is only twice removed from the source
 3. When made by an informant
 4. When corroborated by other facts or circumstances
- 3-32. A government vehicle is stopped upon entering an installation and searched under the suspicion that it contains stolen property. What type of search would this be?
1. Exigency search
 2. Consent search
 3. Search incident to lawful apprehension
 4. Search not requiring probable cause
- 3-33. For a consent search to be valid, in what specific manner must the consent be given?
1. Freely and voluntarily
 2. Informal and voluntary
 3. Intelligently and freely
 4. Freely out of the face of authority
- 3-34. At which of the following moments should an individual be informed of his or her right to refuse a consent search?
1. During a stop and frisk search
 2. Whenever requested under the face of authority
 3. When requesting a consent urinalysis
 4. Before every consent search
- 3-35. A consent to search form executed by a suspected drug offender may be revoked after signing and before the actual search begins.
1. True
 2. False
- 3-36. During a stop and frisk situation, to what extent may a person search another individual?
1. An internal search of all garment pockets
 2. A pat down or frisk of the outer garments
 3. The removal of clothing and shoes
 4. The emptying of pockets and check under the beltline

- 3-37. A proper consent search must contain what specific number of signatures?
1. One
 2. Two
 3. Three
 4. Four
- 3-38. A search incident to a lawful apprehension is limited to which of the following places?
1. The person being apprehended
 2. The person's clothing
 3. The places that can be reached by the person
 4. All of the above
- 3-39. Nonconsensual intrusions into body cavities may be performed by which of the following personnel?
1. Police personnel
 2. Brig personnel
 3. A person with appropriate medical qualifications
 4. All personnel on an exigency basis
- 3-40. Evidence of contraband obtained through a normal physical evaluation may be seized.
1. True
 2. False
- 3-41. A military working dog's reliability may be determined by the CO using which of the following methods?
1. The amount of training conducted between the dog and its handler
 2. The accuracy of the dog's alert in a controlled situation
 3. The prior record of the dog's handler
 4. The record of training maintained on the dog
- 3-42. An examination conducted for the purpose of ensuring the security, military fitness, good order, and discipline of an organization is the definition of which of the following terms?
1. Inventory
 2. Shakedown search
 3. Inspection
 4. Gate search
- 3-43. What method is used to show that an inspection is not a subterfuge for a search?
1. Prescheduling inspections
 2. Assigning random inspections
 3. Preannouncing inspections
 4. Randomly announcing inspections
- 3-44. A military working dog is considered as what type of inspection aid?
1. Biological
 2. Natural
 3. Technological
 4. Human assisted
- 3-45. Which of the following sources provides detailed guidance for the collection, analysis, and use of urine samples?
1. MILPERSMAN
 2. OPNAVINST 5350.4B
 3. JAGMAN
 4. SORM
- 3-46. A completed urinalysis consent form must contain what specific number of signatures?
1. One
 2. Two
 3. Three
 4. Four
- 3-47. Approval to conduct a unit sweep urinalysis should be granted by what authority?
1. Commanding officer
 2. Second-echelon commander
 3. Local drug lab commanding officer
 4. Chief of Naval Operations

3-48. Service-directed testing falls under the authority of what official?

1. Commanding officer
2. Chief of Naval Operations
3. Chief of Naval Personnel
4. Secretary of the Navy

3-49. What is surveillance testing?

1. A command-directed test given due to a member's suspicious behavior
2. A command-directed test given when a command has doubt as to a member's wrongful use of drugs
3. Periodic command-directed tests for drug abusers who do not participate in a rehabilitation program
4. Rehabilitation program testing

3-50. Positive results of a command-directed test may be used for which of the following purposes?

1. Admin separation processing
2. Disciplinary proceedings
3. Vacation of suspension of execution of punishment imposed at mast
4. Referral to a DOD treatment program